

Parental Responsibility (PR)

Parental Responsibility is defined in section 3(1) Children Act 1989 as being:
"all the rights, duties, powers, responsibilities and authority which by law a parent of a child has in relation to the child and his property".

The term Parental Responsibility attempts to focus on the parent's duties towards their child rather than the parent's rights over their child.

Who has Parental Responsibility?

A birth mother automatically has Parental Responsibility for her child from birth.

In England and Wales

A biological father automatically has Parental Responsibility if he:

- Is married to the child's mother at the time of the child's birth
- Subsequently marries the mother
- Is named on the birth certificate (after a certain date, depending on which part of the UK the child was born in)

An unmarried biological father may gain Parental Responsibility if he:

- With mother's consent arranges for the child's birth to be re-registered
- Enters into a Parental Responsibility Agreement with the mother
- Applies for a Parental Responsibility Order granted by the courts
- Was granted a Residence Order prior to 22/4/2014
- Is named as the parent with whom the child is resident under a Child Arrangement Order

A step-parent who is married to one of the biological parents may gain Parental Responsibility if he/she:

- Enters into a Step Parental Responsibility Agreement with the child's parents who have Parental Responsibility
 - Applies for a Parental Responsibility Order granted by the courts
- Any parental requests for contact should only be accommodated if they are reasonable

Same-sex parents

Married or Civil partners; female couples

The child's biological mother will automatically have Parental Responsibility for the child.

The biological mother's civil partner will automatically have Parental Responsibility if they were in a civil partnership with the child's mother at the time of conception by artificial insemination. In this case both partners names should be on the birth certificate and the child will have no legal father.

If conception was through sexual intercourse with a man, the biological mother's civil partner will not automatically have Parental Responsibility. She can obtain Parental Responsibility in the same way as a married step parent

Married or Civil partners; male couples

If a child is conceived through a surrogacy arrangement and the child's biological father is named on the birth certificate, he will have Parental Responsibility for the child. The surrogate mother will automatically have Parental Responsibility for the child. However, if the surrogate mother is married, the child's legal father will normally be the surrogate's husband.

When one of the fathers is biologically related to the child, the intended parents can apply to the courts for a Parental Order.

In practical terms Parental Responsibility means:

The power to make important decisions in relation to a child - for example, decisions about where a child is to live, whether a child should receive medical treatment, what religion the child should follow and which school they should attend.

Anyone with Parental Responsibility also has rights of access to records and rights to reports, together with rights for admission purposes and to make representations about exclusions.

In the event of a dispute, only those with Parental Responsibility for the child or young person have a right to make decisions.

Admissions

Information about who has Parental Responsibility should be included as part of admissions forms and processes and kept on record.

Consent for trips and other purposes

Strictly, parental consent should always be obtained from someone with Parental Responsibility. .

Picking children up from settings

If only one parent has Parental Responsibility, they can say who should pick up the child.

If both parents have Parental Responsibility, but there is a court order prescribing who should have residence and only limited contact for the other parent, then settings should normally respect the wishes of the parent who has residence. Settings can ask to see a copy of a court order for clarification.

In the event of a dispute, the parents should be asked to take the matter back to court.

Changing a child's name

Mothers and fathers can always ask for their child to be **known** by a different name.

In these circumstances, settings should keep the original information on the admissions and attendance register, but amend it to include the new details.

If both parents with Parental Responsibility disagree over the issue, then the status quo should be kept until a court order determines the issue.

The child's legal name on the register has to remain the same unless there is a court order or deed poll changing it, but the "known as" information can be maintained alongside it and the setting can refer to the known name.

How can Parental Responsibility be removed?

It is extremely difficult to remove Parental Responsibility from a parent. For the birth mother or father who has acquired Parental Responsibility through marriage to the birth mother, Parental Responsibility is normally only lost through adoption or on their death.

If a person obtained Parental Responsibility through:

- A Parental Responsibility Order
- A Parental Order
- A Parental Responsibility Agreement
- Being registered as the child's father/ co-parent on the birth certificate;

Parental Responsibility can be removed through a Court Order.

Parental Responsibility obtained through a Residence Order or Child Arrangement Order will cease once the order is no longer in place.

The biological father's civil partner can obtain Parental Responsibility by entering into a Parental Responsibility Agreement with the child's biological parents and the legal father.

Non-civil partners

For same-sex partners who are not civil partners, the second parent can obtain Parental Responsibility by either:

- applying for Parental Responsibility as part of a Parental Responsibility Agreement becoming a civil partner of the other parent and making a Parental Responsibility Agreement, applying for a Parental Order, or jointly registering the later divorce.

Births registered in Scotland

A biological father has Parental Responsibility if he is married to the mother when the child is conceived, or marries her at any point afterwards.

An unmarried biological father has Parental Responsibility if he is named on the child's birth certificate (from 4 May 2006).

Births registered in Northern Ireland

A biological father has Parental Responsibility if he is married to the mother at the time of the child's birth.

If he marries the mother after the child's birth, he has Parental Responsibility if he lives in Northern Ireland at the time of the marriage.

An unmarried biological father has Parental Responsibility if he is named, or becomes named, on the child's birth certificate (from April 2002)

Births registered in England and Wales

If the parents of a child are married when the child is born, or if they have jointly adopted a child, both have Parental Responsibility. They both keep Parental Responsibility if they

Births registered outside the UK

If a child is born overseas and comes to live in the UK, Parental Responsibility depends on the UK country they are now living in.

Useful links/resources

- How to guide: Parental Responsibility, Coram Children's Legal Centre:
<http://www.childrenslegalcentre.com/>
- Parenthood for same sex couples, Stonewall:
http://www.stonewall.org.uk/at_home/parenting/3601.asp
- [Direct.gov](http://www.direct.gov.uk) – Parental Responsibility